

ORIGINAL

FILED

08 MAY 14 PM 3:51

CLERK, U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

cf

BY:

DEPUTY

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6 Attorney for Defendant

SEPRACOR INC. (erroneously sued as Sepracor, Inc.)

## UNITED STATES DISTRICT COURT

## SOUTHERN DISTRICT OF CALIFORNIA

11 AMY SHERLOCK, an individual,

12 Plaintiff,

13 vs.

14 SEPRACOR, INC.; and DOES 1 TO 50,  
15 inclusive,

16 Defendants.

) Case No.

) [Removed from State Court

) Case No.: 37-2008-00081814-CU-WT-CTL]

) DEFENDANT SEPRACOR INC.'S

) NOTICE OF REMOVAL OF ACTION TO  
) THE UNITED STATES DISTRICT  
) COURT OF THE SOUTHERN DISTRICT  
) OF CALIFORNIA

) (Diversity Jurisdiction)

) COMPLAINT FILED: 4/14/08

20 TO PLAINTIFF AMY SHERLOCK, AND THE CLERK OF THE ABOVE-  
21 ENTITLED COURT:22 PLEASE TAKE NOTICE that Defendant Sepracor Inc. ("Sepracor") ("Defendant")  
23 hereby removes the above-referenced action of plaintiff Amy Sherlock ("Plaintiff") from the  
24 San Diego Superior Court to the United States District Court for the Southern District of  
25 California pursuant to 28 U.S.C. §§ 1441 and 1446. In support of removal, Defendant states  
26 as follows:

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## PROCEDURAL HISTORY

1. On April 11, 2008, Plaintiff filed a Complaint in the Superior Court of the State of California for the County of San Diego, entitled *Amy Sherlock v. Sepracor, Inc.; and DOES 1 to 50*, San Diego Superior Court Case No. 37-2008-00081814-CU-WT-CTL (the “Complaint”). The Complaint alleges claims for (1) wrongful termination in violation of public policy and (2) retaliation.

2. On or about April 14, 2008, Plaintiff served the Summons and Complaint on Sepracor via personal service. A copy of the Summons and Complaint that were served on Sepracor is attached to this Notice as **Exhibit A**.

3. Sepracor filed an Answer to the Complaint in San Diego Superior Court on May 14, 2008. A copy of Sepracor's Answer is attached as **Exhibit B**. Plaintiff's Complaint and Defendant's Answer are the only pleadings, process or orders that were served on Sepracor.

## **TIMELINESS OF REMOVAL**

4. Service of the Complaint upon Sepracor was effective on April 14, 2008.

5. This Notice of Removal is timely filed because it has been filed within 30 days of receipt by proper service as required by 28 U.S.C. §1446(b).

### **BASIS FOR REMOVAL JURISDICTION**

6. This Court has diversity jurisdiction over this action pursuant to 28 U.S.C. §1332 because Plaintiff and Defendant are citizens of different states, no defendant is a citizen of California, and the amount in controversy exceeds \$75,000 exclusive of interests and costs. Accordingly, this case may be removed to this Court under 28 U.S.C. §§1441(a) and 1446(b).

### A. Diversity of Citizenship

7. Plaintiff is a citizen of the state of California. Plaintiff currently resides in San Diego, California and at all times relevant to the Complaint she resided and worked in San Diego, California.

8. Sepracor is, and at all relevant times was a corporation organized and existing under the laws of the State of Delaware with its principal place of business in Marlborough,

1 Massachusetts. *See* Declaration of Mark Wanda ("Wanda Decl.") attached hereto as **Exhibit**  
 2 **C**, at ¶¶3, 4. Accordingly, Sepracor is a citizen of Delaware and Massachusetts.<sup>1</sup>

### 3 **B. Amount in Controversy**

4 9. The amount in controversy in this action exceeds the \$75,000 minimum  
 5 required by 28 U.S.C. § 1332(a). As Plaintiff alleges in the Complaint, she seeks to recover  
 6 lost wages, loss of employment benefits, and damage to earning capacity from September  
 7 2007 to the present. She also seeks general damages for pain and suffering, special damages,  
 8 and recovery for damage to reputation. Complaint, Exh. A, ¶¶ 5J, 10-13, 17-20; Prayer for  
 9 Relief.

10 10. In addition, Plaintiff seeks to recover her attorneys' fees.

11 11. Plaintiff also seeks to recover punitive damages to punish Sepracor for  
 12 Sepracor's alleged conduct.

13 12. For these reasons, the amount Plaintiff seeks to recover against Sepracor,  
 14 exclusive of interests and costs, exceeds the \$75,000 jurisdictional minimum of this Court.

### 15 **NOTICE PROVIDED TO STATE COURT**

16 13. Pursuant to 28 U.S.C. §1446(d), Sepracor served written notice of Removal to  
 17 Plaintiff and has filed a copy of this notice with the clerk of the Superior Court of California,  
 18 County of San Diego, from which this case was removed. A copy of the Notice of Filing  
 19 Petition for Removal is attached as **Exhibit D** and a copy of the Notice to Adverse Parties is  
 20 attached as **Exhibit E**.

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 28 <sup>1</sup> The Complaint also names as Defendants DOES 1 through 50, inclusive ("Doe Defendants"). Pursuant to 28 U.S.C. § 1441(a), the citizenship of Doe Defendants is disregarded. For this reason, this Notice of Removal does not discuss the citizenship of Doe Defendants.

1 ///

2 Thus, Sepracor respectfully requests that the above-mentioned litigation, now pending  
3 before the Superior Court of the State of California, San Diego County, be removed to this  
4 court based on diversity jurisdiction.

5

6

FISHER & PHILLIPS LLP

7

8 Dated: May 14, 2008

By: 

CHRISTOPHER C. HOFFMAN

MEGAN C. WINTER

Attorneys for Defendant

Sepracor Inc.

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SUM-100

# SUMMONS (CITACION JUDICIAL)

NOTICE TO DEFENDANT:  
(AVISO AL DEMANDADO):  
SEPRACOR, INC. AND DOES 1 THROUGH 50, INCLUSIVE

YOU ARE BEING SUED BY PLAINTIFF:  
(LO ESTÁ DEMANDANDO EL DEMANDANTE):  
AMY SHERLOCK

FOR COURT USE ONLY  
(SOLO PARA USO DE LA CORTE)

F I L E D

Clerk of the Superior Court

APR 14 2008

By \_\_\_\_\_ Deputy

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), or by contacting your local court or county bar association.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California ([www.courtinfo.ca.gov/selfhelp/espanol/](http://www.courtinfo.ca.gov/selfhelp/espanol/)), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), en el Centro de Ayuda de las Cortes de California, ([www.courtinfo.ca.gov/selfhelp/espanol/](http://www.courtinfo.ca.gov/selfhelp/espanol/)) o poniéndose en contacto con la corte o el colegio de abogados locales.

The name and address of the court is:  
(El nombre y dirección de la corte es):  
San Diego Superior Court of California  
330 West Broadway; San Diego, CA 92101

CASE NUMBER:  
(Número del Caso): 37-2008-00081814-CU-WT-CTL

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:  
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):  
Michael K. Newlee, Esq., 3990 Old Town Avenue, Suite 200A; San Diego, CA 92110

DATE: APR 14 2008  
(Fecha)

Clerk, by \_\_\_\_\_, Deputy  
(Secretario) D. SMITH (Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)  
(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

NOTICE TO THE PERSON SERVED: You are served

1. ☐ as an individual defendant.  
2. ☐ as the person sued under the fictitious name of (specify):

3. ☐ on behalf of (specify):

- under: ☐ CCP 416.10 (corporation) ☐ CCP 416.60 (minor)  
☐ CCP 416.20 (defunct corporation) ☐ CCP 416.70 (conservatee)  
☐ CCP 416.40 (association or partnership) ☐ CCP 416.90 (authorized person)  
☐ other (specify):

4. ☐ by personal delivery on (date):

(SEAL)



EXHIBIT A

03 APR 11 PM 2:19

Attorney for Plaintiff, AMY SHERLOCK

AMY SHERLOCK,

) Case No.: 37-2008-00081814-CU-WT-CTL

Plaintiff,

**VS.**

SEPRACOR, INC, and DOES 1 through 50,  
Inclusive,

COMPLAINT FOR WRONGFUL TERMINATION  
IN VIOLATION OF PUBLIC POLICY(HOSTILE  
WORK ENVIRONMENT); RETALIATION

**Defendants.**

**Plaintiff, AMY SHERLOCK, alleges as follows:**

**FACTS COMMON TO ALL CAUSES OF ACTION**

1. At all times mentioned herein, Defendant SEPRACOR, INC. was a corporation doing business in the County of San Diego, California.

2. Plaintiff is unaware of the names of Defendants sued as DOES 1 through 50, and therefore sues these defendants under fictitious names pursuant to CCP §474. Plaintiff is informed and believes, and thereon alleges, that each person sued under this fictitious designation was in some manner legally responsible for the damages as set forth below, and in doing those things complained of was acting as the agent, servant, partner, and/or employee of

1 each of the co-defendants, and in doing the actions mentioned herein below, was acting under  
2 the course and scope of his or her authority as such agent, servant, partner, and/or employee,  
3 and with the permission and consent of each co-defendant.

4 3. Plaintiff was hired by Defendants, as a pharmaceutical sales representative in  
5 March, 2006. At all times referenced herein, Plaintiff performed her job in an exemplary manner,  
6 and solely for the benefit of Defendant Sepracor, Inc.;

7 4. From approximately November 2006 through and including September 2007  
8 Plaintiff was subjected to a hostile work environment by other employees and managers at  
9 Sepracor, Inc., including but not limited to her immediate supervisor, Julia Gawel and her co-  
10 worker, John Lutters;

11 5. Among other things, Defendant Sepracor Inc., through Julia Gawel:

12 A. Forced Ms. Sherlock to do the work of a three person team by herself knowing she  
13 had broken her back and was recovering from that broken back. Ms. Sherlock was informed that  
14 she was expected to have the sales numbers of a three person team despite the fact that she  
15 was only one person and had only recently been trained for the position;

16 B. Instructed Plaintiff through Julia Gawel at the behest and request of Sepracor, Inc.,  
17 to spy on co-worker John Lutters in order to obtain enough information for Sepracor, Inc., to fire  
18 Mr. Lutters. even though this conduct would be unethical, immoral, and illegal and known by  
19 Sepracor to be so. Plaintiff was instructed that this conduct was part of her job and one of the  
20 reasons she was hired as opposed to others who had applied for the position;

21 C. Paired Plaintiff with John Lutters at a time when Sepracor, Inc. knew or should have  
22 known that Mr. Lutters had significant behavioral problems, including substance abuse and anger  
23 management issues. Even though the territory where Plaintiff and Mr. Lutters worked was  
24 supposed to be a three person territory, Plaintiff worked that territory with Mr. Lutters alone;

25 D. Forced Plaintiff to document Mr. Lutters' lack of dedication, diligence, and attention  
26 to his job as one of the requirements of her current employment with Defendant;

27 E. Forced Plaintiff to continue to work with Mr. Letter's after Mr. Lutters sexually  
28 harassed Plaintiff by making rude jokes concerning the size of his penis in the presence of clients



1 of the company;

2 F. Forced Plaintiff to continue to work with Mr. Lutters after Mr. Lutters threatened  
3 physical violence against Plaintiff;

4 G. Forced Plaintiff to continue to work with Mr. Lutters after Plaintiff reported to the  
5 company her own personal observations that Mr. Lutters was under the influence of stimulants  
6 and/or rave drugs while at work in clients' offices which she was required to do under Defendant's  
7 policies;

8 H. Transferred Plaintiff to an undesirable territory farther from her home and at  
9 significant physical pain for Plaintiff because of her broken back after she requested that Mr.  
10 Lutters be transferred;

11 I. Transferred Plaintiff to a less desirable territory to work with partners whom she had  
12 specifically indicated she did not want to work with at the time of her hire. The partner, Vivane  
13 Mason, had also requested that she not work with Plaintiff at the time of her hire. Nevertheless,  
14 when Plaintiff requested that Mr. Lutters be transferred, the company placed these two  
15 antagonists together;

16 J. Other and further acts of harassment including but not limited to being demeaned,  
17 and belittled by her supervisor, human relations personnel, and her manager.

18 Due to the unrelenting negative actions taken against her by the company in spite of  
19 Plaintiffs exemplary performance, Plaintiff became distressed, depressed, and exceedingly  
20 stressed over her employment. Ultimately, she was advised to leave the company for the  
21 preservation of her own health and she did so in September, 2007.

## 22 **FIRST CAUSE OF ACTION**

### 23 **WRONGFUL TERMINATION IN VIOLATION OF PUBLIC POLICY** 24 **HOSTILE WORK ENVIRONMENT**

25 6. Plaintiff realleges and incorporates by reference all of the preceding allegations of  
26 the Complaint as though set forth in full herein;  
27  
28

1           7.     The allegations set forth in paragraphs 1 through 5 constitute a hostile  
2 work environment. This hostile work environment was allowed to exist and perpetuated by both  
3 the manager and the Defendant company itself, and ratified by those in a position to correct it.  
4 Defendants' knew or should have known that by creating and perpetuating this hostile work  
5 environment that persons similarly situated to Plaintiff could not be reasonably expected to work  
6 in the environment and was done with the purpose of forcing Plaintiff to quit. Plaintiff, and any  
7 reasonable person similarly situated to Plaintiff would have been unable to tolerate the hostile  
8 work environment created. The hostile work environment directly caused Plaintiff to quit and thus  
9 to be constructively terminated by the company;

10           8.     Such wrongful discharge in violation of public policy was a substantial factor in  
11 causing damages and injuries to Plaintiff as set forth below;

12           9.     The policy of this state prohibits creation and perpetuation of a hostile work  
13 environment. When Defendants created and perpetuated the hostile work environment directed  
14 against Plaintiff and those similarly situated as her, and refused to correct or take steps to correct  
15 the problem, they violated the public policy of this state. This violation also resulted in damages  
16 and injury to Plaintiff as alleged herein;

17           10.    As a further proximate result of Defendants willful, knowing and intentional creation  
18 of a hostile work environment Plaintiff has suffered and will continue to suffer financial losses and  
19 earnings and suffered damage to her earning capacity and lost other valuable employment  
20 benefits;

21           11.    As a further proximate result of the conduct of Defendants in creating and perpetuating  
22 a hostile work environment, and in forcing Plaintiff to terminate her employment with Defendants,  
23 Plaintiff has suffered and continues to suffer damage to her reputation as a pharmaceutical  
24 representative in an amount according to proof.

25           12.    As a further proximate result of the conduct of Defendants in creating and perpetuating  
26 a hostile work environment and forcing Plaintiff to terminate her employment with Defendants,  
27 Plaintiff has incurred and continues to incur legal expenses and attorneys fees and costs in an  
28 amount according to proof at the time of trial.

1        13. Defendants conduct as described above in creating and perpetuating a hostile work  
2 environment was intentional, willful, malicious, oppressive and done with a conscious disregard of  
3 the rights of Plaintiff so as to entitle Plaintiff to punitive and exemplary damages in an amount  
4 sufficient to punish Defendants and make an example of them.

5  
6                                    **SECOND CAUSE OF ACTION**

7                                    **RETALIATION**

8        14. Plaintiff re-alleges and incorporates by reference each and every allegation set  
9 forth in paragraphs 1 through 13, inclusive as if set forth in full.

10       15. The conduct set forth in Paragraph 5, subsections H, I, and J constitute  
11 retaliation against Plaintiff by Defendant for Plaintiffs performance of the conduct set forth in  
12 Paragraph 5, subsections A through G at the Defendants request and insistence. Plaintiff is  
13 informed and believes and thereon alleges that Defendant took this retaliatory action against  
14 Plaintiff in response to reports by made by John Lutters that Plaintiff was engaging in conduct  
15 which, unbeknownst to Mr. Lutters, had been requested by the company as a way of trying to  
16 appease Mr. Lutters.

17       16. The policy of this state prohibits retaliation against employees who report illegal,  
18 immoral, and unethical acts, especially but not limited to acts such as those set forth in paragraph  
19 5 of this complaint. When Defendants retaliated against Plaintiff through the actions of its  
20 employees, and refused to correct or take steps to correct the problem, they violated the public  
21 policy of this state. This violation also resulted in damages and injury to Plaintiff as alleged  
22 herein;

23       17. As a further proximate result of Defendants willful, knowing and retaliation against  
24 Plaintiff, Plaintiff has suffered and will continue to suffer financial losses and earnings and  
25 suffered damage to her earning capacity and lost other valuable employment benefits;

26       18. As a further proximate result of the conduct of Defendants in retaliating against Plaintiff,  
27 and in forcing Plaintiff to terminate her employment with Defendants, Plaintiff has suffered and  
28 continues to suffer damage to her reputation as a pharmaceutical representative in an amount

1 according to proof.

2 19. As a further proximate result of the conduct of Defendants retaliating against Plaintiff  
3 and forcing Plaintiff to terminate her employment with Defendants, Plaintiff has incurred and  
4 continues to incur legal expenses and attorneys fees and costs in an amount according to proof at  
5 the time of trial.

6 20. Defendants conduct as described above retaliating against Plaintiff was intentional,  
7 willful, malicious, oppressive and done with a conscious disregard of the rights of Plaintiff so as to  
8 entitle Plaintiff to punitive and exemplary damages in an amount sufficient to punish Defendants  
9 and make an example of them.

10 21. Attached as Exhibit "A" to this Complaint is Plaintiff's Right to Sue letter from the  
11 DFEH.

12 Wherefore, Plaintiff prays damages against Defendants, and each of them, as follows:

- 13 1. General Damages according to proof at the time of trial;  
14 2. Special Damages according to proof at the time of trial;  
15 3. Lost wages and damage to earning capacity according to proof at the time of trial;  
16 4. Attorneys fees according to proof at the time of trial;  
17 5. Damage to reputation according to proof at the time of trial;  
18 6. Punitive Damages according to proof at the time of trial;  
19 7. Such other and further relief as the Court deems just and proper.

20 DATED: April 10, 2008

LAW OFFICES OF MICHAEL K. NEWLEE

21  
22  
23 By: 

24 MICHAEL K. NEWLEE  
25 Attorney for Plaintiff, AMY SHERLOCK  
26  
27  
28

STATE OF CALIFORNIA - STATE AND CONSUMER SERVICE

CV

ARNOLD SCHWARZENEGGER, Governor

**DEPARTMENT OF FAIR EMPLOYMENT & HOUSING**

1350 Front Street, Suite 3005 San Diego, CA 92101  
(619) 645-2681 TTY (800) 700-2320 Fax (619) 645-2683  
www.dfeh.ca.gov



March 28, 2008

AMY SHERLOCK  
3990 Old Town Avenue Ste 200A  
San Diego, CA 92110

RE: E200708D1255-00-sc  
SHERLOCK/SEPRACOR INC.

Dear AMY SHERLOCK:

**NOTICE OF CASE CLOSURE**

This letter informs that the above-referenced complaint that was filed with the Department of Fair Employment and Housing (DFEH) has been closed effective March 17, 2008 because an immediate right-to-sue notice was requested. DFEH will take no further action on the complaint.

This letter is also the Right-To-Sue Notice. According to Government Code section 12965, subdivision (b), a civil action may be brought under the provisions of the Fair Employment and Housing Act against the person, employer, labor organization or employment agency named in the above-referenced complaint. The civil action must be filed within one year from the date of this letter.

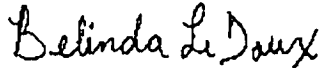
If a federal notice of Right-To-Sue is wanted, the U.S. Equal Employment Opportunity Commission (EEOC) must be visited to file a complaint within 30 days of receipt of this DFEH *Notice of Case Closure* or within 300 days of the alleged discriminatory act, whichever is earlier.

"A"

Notice of Case Closure  
Page Two

DFEH does not retain case files beyond three years after a complaint is filed, unless the case is still open at the end of the three-year period.

Sincerely,



Belinda LeDoux  
District Administrator

cc: Case File

Director  
Human Resources/Personnel  
SEPRACOR INC.  
84 Waterford Drive  
Marlborough, MA 01752

DFEH-200-43 (06/06)

"A"



1 Christopher C. Hoffman, Bar No. 176334  
Megan C. Winter, Bar No. 241429  
2 FISHER & PHILLIPS LLP  
4225 Executive Square, Suite 950  
3 La Jolla, California 92037  
Telephone: (858) 597-9600  
4 Facsimile: (858) 597-9601

5 Attorneys for Defendant  
SEPRACOR INC. (erroneously sued as Sepracor, Inc.)  
6  
7

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
9 **COUNTY OF SAN DIEGO – CENTRAL DIVISION**  
10

11 AMY SHERLOCK,

12 Plaintiff,

13 vs.

14 SEPRACOR, INC.; and DOES 1 through  
15 50 inclusive,

16 Defendants.  
17

**CASE NO.: 37-2008-00081814-CU-WT-CTL**

**Assigned to:**  
**Dept.:**

**DEFENDANT SEPRACOR INC.'S ANSWER TO  
PLAINTIFF'S COMPLAINT**

**Complaint filed: April 11, 2008**

18  
19 Defendant SEPRACOR INC ("Defendant"), for itself alone and for no other parties, responds  
20 to Plaintiff AMY SHERLOCK's Complaint as follows:

21 **ANSWER**

22 Pursuant to California Code of Civil Procedure section 431.30, subdivision (d), Defendant  
23 generally denies each and every allegation and cause of action in Plaintiff's unverified Complaint.

24 **FIRST AFFIRMATIVE DEFENSE**

25 Plaintiff's complaint, and each and every cause of action therein, fails to state facts sufficient  
26 to constitute any cause of action against Defendant.

27 **SECOND AFFIRMATIVE DEFENSE**

28 The acts of any other Defendants, including fictitiously named Does 1 through 50, of which



1 Plaintiff complains, were all undertaken outside the scope of their agency and/or employment with  
2 Defendant and without the knowledge or consent of Defendant, and Defendant may not be held  
3 liable for them.

4 **THIRD AFFIRMATIVE DEFENSE**

5 To the extent any of the acts alleged in the Complaint did occur, which Defendant denies,  
6 they were done with the consent, full knowledge, and concurrence of Plaintiff.

7 **FOURTH AFFIRMATIVE DEFENSE**

8 Plaintiff's complaint, and each and every cause of action therein, is barred by the applicable  
9 statute of limitations, including but not limited to: Code of Civil Procedure section 335.1,  
10 subdivision (a), and California Government Code sections 12960 and 12965.

11 **FIFTH AFFIRMATIVE DEFENSE**

12 Plaintiff's claims are barred by Plaintiff's failure to exhaust administrative remedies and/or  
13 internal grievance procedures.

14 **SIXTH AFFIRMATIVE DEFENSE**

15 To the extent Plaintiff suffered any symptoms of mental or emotional distress or injury, they  
16 were the result of a pre-existing psychological disorder or alternative concurrent cause, and not the  
17 result of any act or omission of Defendant.

18 **SEVENTH AFFIRMATIVE DEFENSE**

19 Plaintiff's claims are barred because her perception of conduct alleged to constitute  
20 harassment was not reasonable.

21 **EIGHTH AFFIRMATIVE DEFENSE**

22 Plaintiff's claims are barred because alleged incidents of harassment were not sufficiently  
23 severe or pervasive so as to alter the terms and conditions of Plaintiff's employment and create an  
24 abusive work environment.

25 **NINTH AFFIRMATIVE DEFENSE**

26 Defendant exercised reasonable care to prevent and promptly correct any allegedly harassing  
27 behavior.

28 ///

1 **TENTH AFFIRMATIVE DEFENSE**

2 Plaintiff unreasonably failed to take advantage of any preventive or corrective opportunities  
3 provided by Defendant or to otherwise avoid harm.

4 **ELEVENTH AFFIRMATIVE DEFENSE**

5 Plaintiff's reasonable use of Defendant's procedures to prevent and/or correct the allegedly  
6 harassing behavior would have been prevented all or some of the alleged harm she claims to have  
7 suffered.

8 **TWELFTH AFFIRMATIVE DEFENSE**

9 Defendant did not authorize, direct, participate, ratify in any alleged discriminatory or  
10 harassing behavior.

11 **THIRTEENTH AFFIRMATIVE DEFENSE**

12 Any recovery on Plaintiff's Complaint, or any purported cause of action alleged therein, is  
13 barred in whole or in part by Plaintiff's failure to mitigate her damages.

14 **FOURTEENTH AFFIRMATIVE DEFENSE**

15 Any recovery on Plaintiff's Complaint or any purported cause of action alleged therein, is  
16 barred in whole or in part by after-acquired evidence which independently justified Plaintiff's  
17 separation of employment.

18 **FIFTEENTH AFFIRMATIVE DEFENSE**

19 Plaintiff is not entitled to recover punitive or exemplary damages from Defendant on the  
20 grounds that any award of punitive or exemplary damages would violate Defendant's constitutional  
21 rights under the Due Process Clauses of the Fifth and Fourteenth Amendments of the United States  
22 Constitution.

23 **RESERVATION OF RIGHTS**

24 Plaintiff has failed to set out her claims with sufficient particularity to permit Defendant to  
25 raise all appropriate defenses and, thus, Defendant reserves the right to add additional defenses when  
26 Plaintiff's purported claims become known.

27 ///

28 ///

1 WHEREFORE, this answering Defendant prays as follows:

- 2 1. That Plaintiff take nothing by her Complaint for damages;
- 3 2. That Plaintiff's Complaint herein be dismissed in its entirety with prejudice;
- 4 3. That Defendant recover its costs of suit herein, including its reasonable attorneys'
- 5 fees; and
- 6 4. That the Court award such other and further relief as it deems appropriate.

7

8 FISHER & PHILLIPS LLP

9

10 Date: May 14, 2008

11 By:



12 CHRISTOPHER C. HOFFMAN  
13 MEGAN C. WINTER  
14 Attorneys for Defendant  
15 Sepracor Inc.

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**PROOF OF SERVICE**  
(C.C.P. § 1013(a) and § 2015.5)

STATE OF CALIFORNIA )  
COUNTY OF SAN DIEGO )

I am employed in the County of San Diego, State of California. I am over the age of eighteen years and not a party to the within action. I am employed with the law offices of Fisher & Phillips LLP and my business address is 4225 Executive Square, Suite 950, La Jolla, California 92037.

On May 14, 2008, I caused the within document(s) entitled: **ANSWER OF SEPRACOR INC. TO PLAINTIFF'S COMPLAINT FOR WRONGFUL TERMINATION IN VIOLATION OF PUBLIC POLICY (HOSTILE WORK ENVIRONMENT); RETALIATION**; to be served on all interested parties in this action by placing [ ] the original / [X] a true copy thereof, in a sealed envelope addressed as follows:

Michael K. Newlee, Esq.  
Law Office of Michael K. Newlee  
3990 Old Town Avenue, Suite 200A  
San Diego, CA 92110  
619/291-2866 fax

Attorney for Plaintiff  
Amy Sherlock

[X] **MAIL** - I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid at La Jolla, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing an affidavit.

[ ] **FAX** - I caused the document(s) listed above to be telefaxed to the aforementioned facsimile number(s).  
*The facsimile machine I used complied with California Rules of Court, Rule 2003(3) and no error was reported by the machine. Pursuant to California Rules of Court, Rule 2005(i), I caused the machine to print a transmission record of the transmission, a copy of which is attached to this declaration.*

[ ] **BY PERSONAL SERVICE** - Such envelope(s) were delivered by hand to the individuals listed above.

[X] **STATE** - I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on May 14, 2008, at La Jolla, California.

  
Marcie Hawkins



1 Christopher C. Hoffman (CA Bar No.: 176334)  
choffman@laborlawyers.com

2 Megan C. Winter (CA Bar No.: 241429)  
mwinter@laborlawyers.com

3 FISHER & PHILLIPS LLP  
4 4225 Executive Square, Suite 950  
5 La Jolla, California 92037  
6 Telephone (858) 597-9600  
7 Facsimile (858) 597-9601

8 Attorney for Defendant  
9 SEPRACOR, INC.

10  
11 UNITED STATES DISTRICT COURT  
12 SOUTHERN DISTRICT OF CALIFORNIA  
13

14 AMY SHERLOCK, an individual,

15 Plaintiff,

16 vs.

17 SEPRACOR, INC.; and DOES 1 TO 50,  
18 inclusive,

19 Defendants.

) Case No.:

) [Removed from State Court

) Case No.: 37-2008-00081814-CU-WT-CTL]

) **DECLARATION OF MARK WANDA IN**  
) **SUPPORT OF SEPRACOR INC.'S**  
) **NOTICE OF REMOVAL OF ACTION TO**  
) **THE UNITED STATES DISTRICT**  
) **COURT OF THE SOUTHERN DISTRICT**  
) **OF CALIFORNIA**

) (Diversity Jurisdiction)

) COMPLAINT FILED: 4/14/08

20 I, Mark Wanda, declare as follows:

21 1. I am Deputy General Counsel for Defendant Sepracor, Inc. ("Sepracor"). I  
22 have personal knowledge of the facts set forth herein and, if called as a witness, I could and  
23 would competently testify thereto.

24 2. Plaintiff Amy Sherlock was employed by Sepracor in San Diego, California  
25 from November 2006 – September 2007.

26 3. Sepracor's principal place of business is located Marlborough, Massachusetts.  
27 The day-to-day management, administrative and executive functions of Sepracor are  
28 performed out of the Massachusetts office.

4. Sepracor is currently and always has been a corporation organized and existing

DECLARATION OF MARK WANDA IN SUPPORT OF DEF. SEPRACOR, INC'S NOTICE OF REMOVAL

EXHIBIT C

1 under the laws of the State of Delaware.

2 5. Sepracor has never been a California corporation. Sepracor is simply  
3 authorized to transact business in the State of California as a foreign corporation.

4 I declare under penalty of perjury under the laws of the state of Massachusetts that the  
5 foregoing is true and correct.

6 Executed this 13th day of May 2008 at 1:40 pm.

7

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Mark Wanda

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**PROOF OF SERVICE**  
(C.C.P. § 1013(a) and § 2015.5)

STATE OF CALIFORNIA )  
COUNTY OF SAN DIEGO )

I am employed in the County of San Diego, State of California. I am over the age of eighteen years and not a party to the within action. I am employed with the law offices of Fisher & Phillips LLP and my business address is 4225 Executive Square, Suite 950, La Jolla, California 92037.

On May 14, 2008, I caused the within document(s) entitled: **DECLARATION OF MARK WANDA IN SUPPORT OF SEPRACOR INC.'S NOTICE OF REMOVAL TO FEDERAL COURT**; to be served on all interested parties in this action by placing [ ] the original / [X] a true copy thereof, in a sealed envelope addressed as follows:

Michael K. Newlee, Esq.  
Law Office of Michael K. Newlee  
3990 Old Town Avenue, Suite 200A  
San Diego, CA 92110  
619/291-2866 fax

Attorney for Plaintiff  
Amy Sherlock

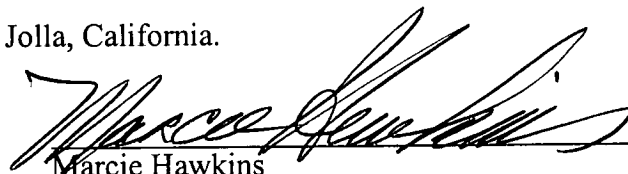
[X] **MAIL** - I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid at La Jolla, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing an affidavit.

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[X] **STATE** - I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on May 14, 2008, at La Jolla, California.

  
Marcie Hawkins





1 Christopher C. Hoffman, Bar No. 176334  
Megan C. Winter, Bar No. 241429  
2 FISHER & PHILLIPS LLP  
4225 Executive Square, Suite 950  
3 San Diego, California 92037  
Telephone: (858) 597-9600  
4 Facsimile: (858) 597-9601

5 Attorneys for Defendant  
SEPRACOR INC. (erroneously sued as Sepracor, Inc.)  
6  
7

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
9 **COUNTY OF SAN DIEGO-CENTRAL**  
10

11 AMY SHERLOCK, an individual

12 Plaintiff,

13 vs.

14 SEPRACOR, INC.; and DOES 1 through  
15 50, inclusive,

16 Defendant.  
17  
18  
19  
20

Case No. 37-2008-00081814-CU-WT-CTL

*Unlimited Jurisdiction*

**DEFENDANT SEPRACOR INC.'S NOTICE  
OF FILING PETITION FOR REMOVAL  
TO FEDERAL COURT**

Complaint Filed: April 14, 2008

21 TO THE CLERK OF THE SUPERIOR COURT OF THE STATE OF CALIFORNIA  
22 FOR THE COUNTY OF SAN DIEGO:

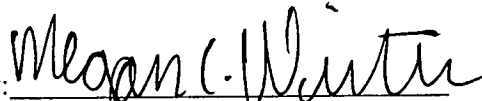
23 PLEASE TAKE NOTICE THAT on May 14, 2008, pursuant to 28 U.S.C. §1446(d),  
24 Defendant Sepracor Inc., by and through its attorneys, filed with the United States District Court  
25 for the Southern District of California, its Notice of Removal of this action, a true and correct  
26 copy of which is attached hereto as Exhibit A. Pursuant to 28 U.S.C. §1446(d), the filing of the  
27 aforesaid Notice of Removal in the District Court, together with the filing of this Notice with this  
28 Court, effects the removal of this action, and this Court may not proceed further with the above-

captioned litigation unless and until the case is remanded.

FISHER & PHILLIPS LLP

DATED: May 14, 2008

By:



CHRISTOPHER C. HOFFMAN

MEGAN C. WINTER

Attorneys for Defendant

SEPRACOR INC.

**PROOF OF SERVICE**  
(C.C.P. § 1013(a) and § 2015.5)

STATE OF CALIFORNIA )  
COUNTY OF SAN DIEGO )

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On May 14, 2008, I caused the within document(s) entitled: **DEFENDANT SEPRACOR INC'S NOTICE OF FILING PETITION FOR REMOVAL TO FEDERAL COURT**; to be served on all interested parties in this action by placing [ ] the original / [X] a true copy thereof, in a sealed envelope addressed as follows:

Michael K. Newlee, Esq.  
Law Office of Michael K. Newlee  
3990 Old Town Avenue, Suite 200A  
San Diego, CA 92110  
619/291-2866 fax

Attorney for Plaintiff  
Amy Sherlock

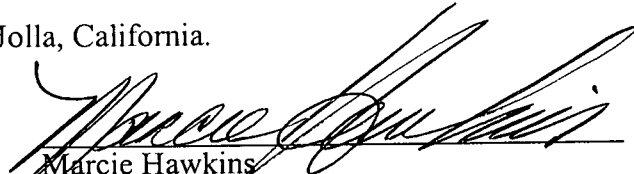
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[X] **STATE** - I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on May 14, 2008, at La Jolla, California.

  
Marcie Hawkins



Christopher C. Hoffman (CA Bar No.:176334)  
Megan C. Winter (CA Bar No.: 241429)  
FISHER & PHILLIPS LLP  
4225 Executive Square, Suite 950  
La Jolla, California 92037  
Telephone (858) 597-9600  
Facsimile (858) 597-9601

Attorney for Defendant  
Sepracor Inc. (erroneously sued as Sepracor, Inc.)

**SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
**COUNTY OF SAN DIEGO – CENTRAL**

AMY SHERLOCK, an individual,  
Plaintiff,

vs.

SEPRACOR, INC., and DOES 1 to 50,  
inclusive,  
Defendants.

Case No.: 37-2008-00081814-CU-WT-CTL

**Assigned to:**  
**Dept.:**

**NOTICE TO ADVERSE PARTIES OF  
REMOVAL TO FEDERAL COURT**

COMPLAINT FILED: 4/14/08

TO PLAINTIFF AMY SHERLOCK:

PLEASE TAKE NOTICE THAT a Notice of Removal of this action was filed on May 14, 2008, in the United States District Court for the Southern District of California. A copy of the said Notice of Removal is attached to this Notice as Exhibit "A", and is served and filed herewith.

FISHER & PHILLIPS LLP

Dated: May 14, 2008

By:

*Megan C. Winter*  
CHRISTOPHER C. HOFFMAN  
MEGAN C. WINTER  
Attorneys for Defendant  
SEPRACOR INC.

**EXHIBIT E**

**PROOF OF SERVICE**  
(C.C.P. § 1013(a) and § 2015.5)

STATE OF CALIFORNIA )  
COUNTY OF SAN DIEGO )

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On May 14, 2008, I caused the within document(s) entitled: **NOTICE TO ADVERSE PARTIES OF REMOVAL TO FEDERAL COURT**; to be served on all interested parties in this action by placing [ ] the original / [X] a true copy thereof, in a sealed envelope addressed as follows:

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Law Office of Michael K. Newlee  
3990 Old Town Avenue, Suite 200A  
San Diego, CA 92110  
619/291-2866 fax

Attorney for Plaintiff  
Amy Sherlock

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Executed on May 14, 2008, at La Jolla, California.

  
Marcie Hawkins

**PROOF OF SERVICE**  
(C.C.P. § 1013(a) and § 2015.5)

STATE OF CALIFORNIA )  
COUNTY OF SAN DIEGO )

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On May 14, 2008, I caused the within document(s) entitled: **DEFENDANT SEPRACOR INC.'S NOTICE OF REMOVAL OF ACTION TO THE UNITED STATES DISTRICT COURT OF THE SOUTHERN DISTRICT OF CALIFORNIA**; to be served on all interested parties in this action by placing [ ] the original / [X] a true copy thereof, in a sealed envelope addressed as follows:

Michael K. Newlee, Esq.  
Law Office of Michael K. Newlee  
3990 Old Town Avenue, Suite 200A  
San Diego, CA 92110  
619/291-2866 fax

Attorney for Plaintiff  
Amy Sherlock

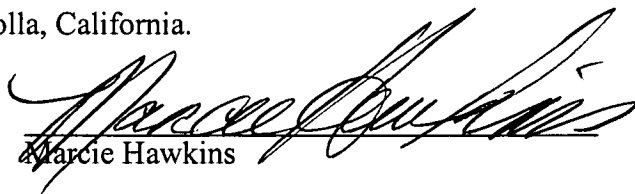
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Executed on May 14, 2008, at La Jolla, California.

  
Marcie Hawkins



**UNITED STATES  
DISTRICT COURT**  
SOUTHERN DISTRICT OF CALIFORNIA  
SAN DIEGO DIVISION

**# 150903 - MB**

**May 14, 2008  
15:57:10**

**Civ Fil Non-Pris**

USAO #: 08CV0865 CIVIL FILING  
Judge.: WILLIAM Q HAYES  
Amount.: \$350.00 CK  
Check#: BC510

**Total-> \$350.00**

**FROM: AMY SHERLOCK VS SEPRACOR INC**

JS 44 (Rev. 12/07)

## CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

## I. (a) PLAINTIFFS

AMY SHERLOCK

(b) County of Residence of First Listed Plaintiff San Diego  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

Michael K. Newlee, 3990 Old Town Ave. Ste 200A, San Diego, CA 92110

## DEFENDANTS

SEPRACOR INC

County of Residence of First Listed Defendant

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

Christopher C. Hoffman, Megan C. Winter, Fisher & Phillips, 4225 Executive Sq. Ste 950, La Jolla, CA 92037

## II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☐ 3 Federal Question (U.S. Government Not a Party)
- ☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

## III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   |                                       |                            |   |                            |                                       |
|---|---------------------------------------|----------------------------|---|----------------------------|---------------------------------------|
|   | PTF                                   | DEF                        |   | PTF                        | DEF                                   |
| Citizen of This State                   | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4            |
| Citizen of Another State                | <input type="checkbox"/> 2            | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input checked="" type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3            | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6            |

## IV. NATURE OF SUIT (Place an "X" in One Box Only)

|  |  |  |  |  |  |  |  |  |  |
|--|--|--|--|--|--|--|--|--|--|
| <input type="checkbox"/> 110 Insurance<br><input type="checkbox"/> 120 Marine<br><input type="checkbox"/> 130 Miller Act<br><input type="checkbox"/> 140 Negotiable Instrument<br><input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment<br><input type="checkbox"/> 151 Medicare Act<br><input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)<br><input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits<br><input type="checkbox"/> 160 Stockholders' Suits<br><input type="checkbox"/> 190 Other Contract<br><input type="checkbox"/> 195 Contract Product Liability<br><input type="checkbox"/> 196 Franchise |  | <input type="checkbox"/> 310 Airplane<br><input type="checkbox"/> 315 Airplane Product Liability<br><input type="checkbox"/> 320 Assault, Libel & Slander<br><input type="checkbox"/> 330 Federal Employers' Liability<br><input type="checkbox"/> 340 Marine<br><input type="checkbox"/> 345 Marine Product Liability<br><input type="checkbox"/> 350 Motor Vehicle<br><input type="checkbox"/> 355 Motor Vehicle Product Liability<br><input type="checkbox"/> 360 Other Personal Injury |  | <input type="checkbox"/> 362 Personal Injury - Med. Malpractice<br><input type="checkbox"/> 365 Personal Injury - Product Liability<br><input type="checkbox"/> 368 Asbestos Personal Injury Product Liability<br><input type="checkbox"/> 370 Other Fraud<br><input type="checkbox"/> 371 Truth in Lending<br><input type="checkbox"/> 380 Other Personal Property Damage<br><input type="checkbox"/> 385 Property Damage Product Liability |  | <input type="checkbox"/> 610 Agriculture<br><input type="checkbox"/> 620 Other Food & Drug<br><input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881<br><input type="checkbox"/> 630 Liquor Laws<br><input type="checkbox"/> 640 R.R. & Truck<br><input type="checkbox"/> 650 Airline Regs.<br><input type="checkbox"/> 660 Occupational Safety/Health<br><input type="checkbox"/> 690 Other   |  | <input type="checkbox"/> 422 Appeal 28 USC 158<br><input type="checkbox"/> 423 Withdrawal 28 USC 157<br><input type="checkbox"/> 400 State Reapportionment<br><input type="checkbox"/> 410 Antitrust<br><input type="checkbox"/> 430 Banks and Banking<br><input type="checkbox"/> 450 Commerce<br><input type="checkbox"/> 460 Deportation<br><input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations<br><input type="checkbox"/> 480 Consumer Credit<br><input type="checkbox"/> 490 Cable/Sat TV<br><input type="checkbox"/> 810 Selective Service<br><input type="checkbox"/> 850 Securities/Commodities/Exchange<br><input type="checkbox"/> 875 Customer Challenge 12 USC 3410<br><input type="checkbox"/> 890 Other Statutory Actions<br><input type="checkbox"/> 891 Agricultural Acts<br><input type="checkbox"/> 892 Economic Stabilization Act<br><input type="checkbox"/> 893 Environmental Matters<br><input type="checkbox"/> 894 Energy Allocation Act<br><input type="checkbox"/> 895 Freedom of Information Act<br><input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice<br><input type="checkbox"/> 950 Constitutionality of State Statutes |  |
| <input type="checkbox"/> 210 Land Condemnation<br><input type="checkbox"/> 220 Foreclosure<br><input type="checkbox"/> 230 Rent Lease & Ejectment<br><input type="checkbox"/> 240 Torts to Land<br><input type="checkbox"/> 245 Tort Product Liability<br><input type="checkbox"/> 290 All Other Real Property   |  | <input type="checkbox"/> 441 Voting<br><input checked="" type="checkbox"/> 442 Employment<br><input type="checkbox"/> 443 Housing/Accommodations<br><input type="checkbox"/> 444 Welfare<br><input type="checkbox"/> 445 Amer. w/Disabilities - Employment<br><input type="checkbox"/> 446 Amer. w/Disabilities - Other<br><input type="checkbox"/> 440 Other Civil Rights   |  | <input type="checkbox"/> 510 Motions to Vacate Sentence<br><input type="checkbox"/> 530 General<br><input type="checkbox"/> 535 Death Penalty<br><input type="checkbox"/> 540 Mandamus & Other<br><input type="checkbox"/> 550 Civil Rights<br><input type="checkbox"/> 555 Prison Condition   |  | <input type="checkbox"/> 710 Fair Labor Standards Act<br><input type="checkbox"/> 720 Labor/Mgmt. Relations<br><input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act<br><input type="checkbox"/> 740 Railway Labor Act<br><input type="checkbox"/> 790 Other Labor Litigation<br><input type="checkbox"/> 791 Empl. Ret. Inc. Security Act<br><input type="checkbox"/> 462 Naturalization Application<br><input type="checkbox"/> 463 Habeas Corpus - Alien Detainee<br><input type="checkbox"/> 465 Other Immigration Actions |  | <input type="checkbox"/> 820 Copyrights<br><input type="checkbox"/> 830 Patent<br><input type="checkbox"/> 840 Trademark<br><input type="checkbox"/> 861 HIA (1395ff)<br><input type="checkbox"/> 862 Black Lung (923)<br><input type="checkbox"/> 863 DIWC/DIWW (405(g))<br><input type="checkbox"/> 864 SSID Title XVI<br><input type="checkbox"/> 865 RSI (405(g))<br><input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)<br><input type="checkbox"/> 871 IRS—Third Party 26 USC 7609  |  |

## V. ORIGIN

(Place an "X" in One Box Only)

- ☐ 1 Original Proceeding
- ☒ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from another district (specify)
- ☐ 6 Multidistrict Litigation
- ☐ 7 Appeal to District Judge from Magistrate Judgment

## VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
28 U.S.C. section 1332

Brief description of cause:

Alleged wrongful termination in violation of public policy.

## VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND:

☐ Yes ☐ No

## VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

5/14/2008

Megan C. Winter

FOR OFFICE USE ONLY

RECEIPT #

158903

AMOUNT

\$350.00

APPLYING IFP

JUDGE

MAG. JUDGE

05/14/08 TB